



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)	
)	
)	ISCR Case No. 09-05331
)	
)	
Applicant for Security Clearance)	

Appearances

For Government: William T. O’Neil, Esq., Department Counsel
For Applicant: *Pro Se*

January 14, 2011

Decision

RICCIARDELLO, Carol G., Administrative Judge:

Applicant mitigated the Government’s security concerns under Guideline E, Personal Conduct, but failed to mitigate the security concerns under Guideline F, Financial Considerations, and Guideline B, Foreign Influence. Applicant’s eligibility for a security clearance is denied.

On May 14, 2010, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guidelines B, E, and F. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant answered the SOR in writing on May 28, 2010, and requested a hearing before an administrative judge. The case was assigned to me on October 6,

2010. At his request, and to accommodate Applicant's schedule, the hearing was scheduled for December 6, 2010. Applicant requested the hearing date be changed to accommodate his schedule, and it was postponed until December 23, 2010. The original Notice of Hearing was issued on October 19, 2010. An amended Notice of Hearing was issued on November 16, 2010. I convened the hearing as rescheduled on December 23, 2010. The Government offered Exhibits (GE) 1 through 7. Applicant did not object and they were admitted. The Government requested administrative notice be taken of certain facts relating to Iran as contained in Hearing Exhibits (HE) I and II. I took administrative notice of the documents. Applicant and two witnesses testified. Applicant offered Exhibits (AE) A through J, which were admitted without objections. DOHA received the hearing transcript (Tr.) on January 4, 2011.

Findings of Fact

Applicant admitted all of the allegations in the SOR except ¶ 3.a, which he denied. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is 57 years old. He came to the United States as a student in 1979 from Iran. He attended college in the United States and received a bachelor's degree in 1986. In 2001, he earned a master's degree. He became a naturalized United States citizen in 1989. He married in 1980, and has two children from the marriage who were born in the United States. They are 23 and 27 years old, and live in the United States. He divorced in 1989 and remarried in 2001. His wife was born in Kazakhstan and became a naturalized United States citizen in 2008. He has a son from the marriage who is six years old.¹

From 1979 through 1989, Applicant returned to Iran once in 1988. He was not yet a United States citizen and used his Iranian passport to travel. After becoming a United States citizen he traveled to Iran in 1999, 2004, and in 2007, when his mother passed away. He explained that as the eldest son he was obligated to return. He obtained an Iranian passport through the Pakistani embassy because the United States does not have diplomatic relations with Iran. He could not obtain entry to Iran on a United States passport because he was born in Iran. Applicant's Iranian passport was issued in July 1997 and expired in 2003. He requested the passport be extended and an extension was granted from October 12, 2003 through June 7, 2008. He stated he requested the extension so he could visit his sick mother. Applicant used his United States passport for all other foreign travel. He advised the appropriate personnel at his place of employment when he traveled to Iran.²

Applicant has three sisters, one brother, three brothers-in-law, and a sister-in-law who are citizens and residents of Iran. He maintains contact with his siblings in Iran. Since his mother passed away, he talks with his older sister by telephone on average

¹ Tr. 125-134; GE 1; AE H.

² Tr. 35-37, 134-145; GE 7; AE F.

about once every three weeks. Before that they spoke about once every week to two weeks. He talks to his other siblings by telephone about every four to six weeks. He usually contacts them. He has not seen his siblings since his mother's funeral in 2007, when he returned to Iran. He stated he has no plans to return to Iran to visit them, but they all may make arrangements to visit each other in another country. He has a second brother who lives in Ecuador and they may meet in another country if his Iranian siblings can obtain visas.³

Applicant stated that his older sister left Iran after the revolution in 1979 and moved to Spain. She was married and had three children. She returned to Iran about a year later because she had difficulty finding work and adapting to the Spanish culture. She had worked as an engineer prior to leaving Iran. When she returned, the new Iranian government wanted her to work for them. Applicant explained that his sister used the excuse that she was the mother of three children and wanted to stay home, but she actually told Applicant that the reason was that she did not want to work for the new Government. His sister's husband was an accountant for a private company for a period of time and is now a financial consultant. He does not have any government ties. Their children are grown and do not have government ties.⁴

Applicant's younger sister is a homemaker and her husband works for a factory and is the manager of operations. They have two grown children who work. They do not have ties to the Government.⁵

Applicant's other younger sister is married and has one grown child. She is a homemaker and her husband works in private industry. None of them have ties to the Government.⁶

Applicant has two brothers, one who lives in Ecuador and would like to move to the United States, but has not been able to obtain a visa. He has no contact with the Government of Iran. He is married and has two children. Applicant's other brother lives in Iran. He used to work for a factory, but now works in the clothing business. He is married and has two children. He does not have ties with the Iranian Government.⁷

Applicant noted that he had an uncle who was a general in the Iranian Army prior to the 1979 revolution. He stated his uncle was apprehended after the revolution, jailed, and later executed by the Iranian government. He had a second uncle who was also a

³ Tr. 120-126.

⁴ Tr. 120-125, 151-157; GE 6.

⁵ Tr. 152, 157-165.

⁶ *Id.*

⁷ Tr. 166-168.

general in the Army who was also jailed. He was detained for about 20 years and eventually released. He later died of natural causes.⁸

Applicant does not own any property in Iran. He estimated he had about \$4,000 to \$5,000 in his savings account in the United States. He has no other assets in the United States. He owns a home, but it has very little equity in it because he refinanced it and took money out of it. He used the money to pay back taxes he owed to the federal government and state government. He also used his savings to pay these debts.⁹

Applicant completed his security clearance application (SCA) on July 9, 2008. He was interviewed by an investigator from the Office of Personnel Management in July and August 2008. In October 2009, he certified his responses and summary were accurate.¹⁰ Question 17 of the SCA asked if in the last seven years Applicant had an active passport that was issued by a foreign government. He responded “no” and failed to disclose he had an active passport issued by the Iranian Government in July 1998 that was renewed and expired in July 2008. Applicant denied he intentionally failed to disclose this information. His explanation was that he did not complete the SCA and that it was a mistake by the person who did it for him. He said they worked together completing the SCA and it was faster for her to do it. He admitted that he certified the information was accurate and took responsibility for the mistake, but stated he did not intend to mislead. He stated he did not attempt to conceal his Iranian heritage and disclosed the required information to his government employer when he traveled to Iran. In addition, he stated that his security manager had a copy of his Iranian passport when he completed the SCA.¹¹

Applicant attributed his financial problems to business problems. He started a business in the 1990s that grew fast. He had difficulty collecting payments from his customers and had problems with labor relations and unions. A general contractor who owed him money would not pay. He was unable to pay taxes owed to the federal government. The Internal Revenue Service (IRS) advised a general contractor who owed Applicant money to forward the payment to them directly rather than Applicant. He resolved the debt to the IRS.¹²

Applicant was the sole owner of the business. He was the personal guarantor on many of the business debts. The business filed Chapter 11 bankruptcy. When the business was protected under the bankruptcy, the creditors sought payment from Applicant in his personal capacity. He filed Chapter 7 bankruptcy in May 1997 and his debts were discharged in September 1997. He estimated the amount discharged in his

⁸ Tr. 170-171.

⁹ Tr. 85-90, 168.

¹⁰ GE 1, 6, 7.

¹¹ Tr. 35-37, 49-52, 134-150.

¹² Tr. 35-39, 109-119.

personal capacity as the guarantor on his business expenses was around \$200,000. He admitted that a portion of the amount discharged also included personal debts, exclusive from his business. He did not recall how much of the debts were personal.¹³

Applicant started another business and was doing well. In 2007, he was able to pay his creditors. He obtained a line of credit to purchase a building for his company. He and his wife are the sole owners of the property, and he is the president of his company. His company has one employee and himself. In 2009, due to the economic downturn, he could not obtain enough contracts for work, which affected his ability to pay his debts. He also attributed some of his financial problems to a dispute he had with a contractor and delays in the government funding certain contracts. He believes the contractor violated the contract thereby affecting his ability to receive work.¹⁴

Applicant began using credit cards to pay for the company's expenses. He attempted to negotiate with his creditors to accept a settlement, but was unsuccessful. In January 2009, Applicant sent letters to his creditors requesting they reduce the interest and the balance he owed. He stated he contacted a consultant in August 2010, to help him settle his debts. He believes the consultant will be able to settle the debts and their compensation is a 10% commission on the amount of the reduction of the debt. He provided a copy of the agreement, and acknowledged that neither party has signed it. He believes the consultant will be negotiating settlements for his debts in the near future. He estimated his debts became delinquent in late 2008 and 2009. He has not made payments on any of the delinquent debts. However, he stated that he has customer accounts that owe him money, he anticipated his cash flow will be increasing, and he will be able to pay the settlement amounts. He is confident that he will be able to settle and pay the debts. He has attempted to reduce his expenses by renting spaces in the office building he owns. In addition, in September 2009, his wife began working for the federal government, which has helped ease their financial problems.¹⁵

The creditor in SOR ¶ 1.h (\$6,286) agreed to settle the debt. Applicant made one payment, but could not afford to fulfill the terms of the settlement and requested the creditor reduce the amount of the payments. The creditor would not renegotiate the settlement, so Applicant ceased making further payments.¹⁶

Applicant owes approximately \$50,891 in delinquent debts. He attributed about 70% of it to business debt and the rest as personal debt. The debts remain unpaid and unresolved.¹⁷

¹³ Tr. 38-39, 109-119.

¹⁴ Tr. 40-45, 58-71, 76-84, 103-108; AE J.

¹⁵ Tr. 41-49, 58-73, 76-84, 93-103; AE D, I.

¹⁶ Tr. 91-93; AE D.

¹⁷ Tr. 90.

Applicant's employee testified on his behalf. She is the project coordinator for his business and confirmed that the company has received favorable appraisals for their work. She also confirmed that there is a dispute with a government contractor regarding the work they are to receive. Because of the dispute they have not received the amount of work they anticipated and feel justified in receiving in accordance with their contract. Instead of subcontracting the work to Applicant, the company is doing the work in-house. Applicant's company is aggressively pursuing work and has reduced their expenses. She believes the company's financial problems are the result of a declining economy. She is responsible for the bookkeeping of the business and stated that Applicant rarely withdraws a salary. He pays his employee first and then the mortgage on the building. He primarily survives financially with his wife's income. She believes Applicant is an honest and trustworthy person.¹⁸

Applicant's office manager from his first business testified on his behalf. She has known Applicant since 1991. She recalled that the difficulty with his past business was due to clients' failure to pay their bills and union issues. She believes Applicant is honest and trustworthy.¹⁹

I have considered all of the documents provided by Applicant. I have considered the character letters he provided. He is described as professional, friendly, helpful, stable, balanced, honest, and trustworthy.²⁰ I have considered Applicant's awards, letters of appreciation, and training certificates.²¹

IRAN²²

Iran is an Islamic Republic where the ultimate political authority is vested in a religious authority. The United States has not had diplomatic ties or consular relations with Iran since their revolution in 1979. In 2009, President Obama continued the 1979 declaration of a National Emergency with respect to Iran due to the extraordinary threat to national security, foreign policy, and the United States economy.

The United States objects to Iran's sponsorship of terrorism, its nuclear ambitions, and its violations of human rights. Iran has been designated a State Sponsor of Terrorism since 1984. It is noted that Iran has been involved in planning and providing financial support for terrorism activity throughout the Middle East, Europe, and Central Asia. Iran has provided aid in the form of weapons, training, and funding of internationally known terrorist organizations to include HAMAS and other Palestinian terrorist groups, Lebanese Hezbollah, Iraq-based militants, and Taliban fighters in

¹⁸ Tr. 175-187.

¹⁹ Tr. 189-195.

²⁰ AE G.

²¹ Tr. 52-62; AE H, I.

²² HE II

Afghanistan. Iran also trains, equips, and funds Iraqi Shi'a militant groups and refused to bring to justice senior al Qaida members it has detained.

Iran flouts the United Nations Security Council restrictions on its nuclear program. Iran has repeatedly been in non-compliance with the International Atomic Energy Agency program's international obligations. Iran continues to enrich uranium. It has been constructing in secret until September 2009, a second uranium enrichment plant. The United States Director of National Intelligence testified that Iran is technically capable of producing enough highly enriched uranium for a weapon in the next few years and would likely choose a missile as its preferred delivery of a nuclear weapon. Iran has the largest inventory of ballistic missiles in the Middle East.

Iran has sought to illegally obtain U.S. military equipment and other sensitive technology. It is also enhancing its focus on U.S. intelligence activities and relies on foreign intelligence partnerships to extend its capabilities.

The Iranian Government has a poor human rights record, which has denigrated through the past year, after the disputed June 2010 elections. Security forces were implicated in custodial deaths and killings of election protesters. Human rights abuses are extensive, including: politically motivated violence, such as torture, beatings, and rape; severe officially sanctioned punishments, including death by stoning, amputation, and flogging; arbitrary arrest and detentions; and lack of judicial independence and of a fair trial.

The Iranian Government does not recognize dual nationality and will treat U.S.-Iranian dual nationals solely as Iranian citizens. The United States cannot provide protection or routine consular relations to American citizens in Iran. Iranian authorities have prevented a number of American citizens, who have traveled to Iran for personal reasons, from leaving, and in some cases have detained, interrogated, and imprisoned them.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available,

reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and has the ultimate burden of persuasion to obtain a favorable security decision.”

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

The security concern for Financial Considerations is set out in AG ¶ 18:

Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

The guideline notes several conditions that could raise security concerns. I have considered all of the disqualifying conditions under AG ¶ 19, and the following are potentially applicable:

- (a) inability or unwillingness to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant has seven delinquent debts totaling approximately \$50,891 that are unpaid. Applicant had approximately \$200,000 in business and personal debt discharged in bankruptcy in 1997. I find there is sufficient evidence to raise these disqualifying conditions.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered the following mitigating conditions under AG ¶ 20:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances;
- (c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant has seven delinquent debts that are unpaid and unresolved at this time. Although he has contacted a consultant to assist him in the future, there has been no progress at this point. I find that AG ¶ 20(a) is not established because Applicant's delinquent debts are numerous and ongoing. Based on Applicant's past history, I am not confident that the problem is unlikely to recur.

Applicant had his business and personal debts discharged in bankruptcy in 1997. He attributes his current financial problems to customers who are unwilling to pay, contractual issues, and the downturn of the economy. To some extent these problems were beyond his control. For AG ¶ 20(b) to be fully applicable, Applicant must have acted responsibly under the circumstances. Delays in government funding are not unusual. Applicant obtained a line of credit to purchase a building, the economy slowed down, and he had difficulty collecting from some clients. These are not necessarily unusual or unanticipated issues when running a business. Applicant chose to use credit cards to stay solvent, but was unable to maintain the payments and they are delinquent. Based on his past history, I find his actions were not responsible.

Applicant stated he has contacted a consultant to assist him in resolving his debt. However, he does not have a signed contract and has not instituted a repayment plan. There is no evidence he has received financial counseling. He negotiated a payment plan with one creditor, made one payment, and was unable to complete the payments. He has not made payments to any of his other delinquent creditors. He is hopeful that his business will resume and they will begin to receive payments from clients. At this point, I cannot conclude that he has made good-faith efforts to repay his creditors or that there are clear indications that the problem is being resolved or is under control. Therefore, I find AG ¶¶ 20(c) and 20(d) do not apply. Applicant has not disputed the delinquent debts, so I find AG ¶ 21 (e) does not apply.

Guideline B, Foreign Influence

AG ¶ 6 expresses the security concern regarding foreign influence:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

AG ¶ 7 describes conditions that could raise a security concern and may be disqualifying. I have considered all of them and especially considered the following:

(a) contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion; and

(b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information.

Applicant's three sisters, brother, and their spouses are all citizens and residents of Iran. Applicant maintains regular contact with all of them. He last visited them when he returned to Iran in 2007 for his mother's funeral. They hope to arrange a reunion in another country, if possible.

The mere possession of close family ties with a person in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, even if only one relative lives in a foreign country and an applicant has contacts with that relative, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information.

Most nations with substantial military establishments seek classified and sensitive information from the United States because it has the largest military industrial complex and most advanced military establishment in the world. Iranian officials could potentially seek or accept classified information from U.S. citizens with access to this material.

The nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, the country is known to conduct intelligence operations against the United States, or there is a serious problem in the country with crime or terrorism. Iran and the United States do not have diplomatic ties. Iran sponsors terrorism. Its human rights record is dismal. It operates in defiance of the United Nations. It unlawfully detains U.S. citizens and treats dual nationals as Iranian citizens. The hostile relationship between Iran and the United States creates a heavy burden of persuasion on Applicant to demonstrate that his relationship with his siblings does not pose a security risk and he is not in a position to be forced to choose between loyalty to the United States and his siblings and their spouses. With Iran's dismal human rights record, its state-sponsored terrorism, its illegal detention of American citizens, its enhanced focus on obtaining military equipment and intelligence, it is conceivable they would target their own citizens or former citizens living in the United States in an attempt to gather valuable information from the United States. Applicant's contact and relationship with his siblings and their spouses create a conflict of interest because these relationships are sufficiently close to raise a possible security concern about his desire to help his relatives in Iran, potentially by providing classified information. The Government produced substantial evidence of Applicant's contacts with his relatives in Iran to raise the issue of potential foreign pressure or attempted exploitation. I find AG ¶¶ 7(a) and 7(b) applies.

I have also analyzed all of the facts and considered all of the mitigating conditions under AG ¶ 8. The following are potentially applicable:

- (a) the nature of the relationship with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization and interests of the U.S.;
- (b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interests in favor of the U.S. interests; and
- (c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.

Applicant's family in Iran does not work for the Iranian Government or military, and there is no evidence that they have been approached or threatened by the Government. There is no evidence that they are currently engaged in activities which would bring attention to them or that they or other Iranian elements are aware that Applicant might have access to classified information. However, Applicant has an emotional bond with his siblings in Iran. He maintains regular and frequent contact with them. Although Applicant's close relationships with his siblings in Iran is an important positive reflection on his character, the same close relationships raise security concerns for possible foreign influence. Applicant's contact with his relatives makes them vulnerable to coercion and non-coercive measures by Iran because they live there. The Iranian Government could exert pressure on them. Because the Iranian Government has a history of human rights violations, they are more likely to use improper and/or illegal means to obtain classified information through Applicant's siblings and their spouses. Under the circumstances, I find AG ¶¶ 8(a), 8(b), and 8(c) do not apply.

Guideline E, Personal Conduct

AG ¶ 15 expresses the security concern pertaining to personal conduct:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. I have specifically considered:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities.

Applicant denied he intentionally failed to disclose he possessed an Iranian passport in the past seven years. It is somewhat troubling that Applicant admitted that it was the person who was assisting him that mistakenly did not disclose he had an Iranian passport. Nevertheless, Applicant admitted he was responsible for ensuring the information was correct and he signed the application affirming its accuracy. I note that Applicant disclosed his trip to Iran in his SCA and to appropriate officials. I find there is insufficient evidence to conclude Applicant deliberately failed to disclose accurate information on his SCA and conclude the above disqualifying condition does not apply.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines F and B in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment. Applicant has been a naturalized U.S. citizen since 1989. His children were all born in the United States and live here. Applicant's siblings and their spouses are citizens and residents of Iran. He has one brother who resides in Ecuador. He maintains close family contacts with his siblings in Iran. Due to the nature of the relationship between the

United States and Iran, I cannot conclude that it is unlikely Applicant or his family members would be placed in a position to have to choose between their family and the interests of the United States. Applicant has a heavy burden of persuasion under Guideline B and has failed to meet it. Applicant had his business and personal debts discharged in bankruptcy in 1997. He has delinquent debts that he attributed to his latest business problems. His delinquent debts remain unpaid and unresolved. Although he is hopeful that he will be able to repay his creditors in the near future, that has not yet transpired, and it is too soon to conclude his finances are no longer a security concern.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising under the guideline for Personal Conduct, but failed to mitigate the security concerns under the guidelines for Financial Considerations and Foreign Influence.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a-1.h:	Against Applicant
Paragraph 2, Guideline B:	AGAINST APPLICANT
Subparagraphs 2.a-2.d:	Against Applicant
Paragraph 3, Guideline E:	FOR APPLICANT
Subparagraph 3.a:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is denied.

Carol G. Ricciardello
Administrative Judge